

COVER SHEETE-FILED 7/1/2021 3:23 PM
CC-13-2021-056
Greenbrier County Circuit Clerk
Louvonne Arbuckle**GENERAL INFORMATION**

IN THE CIRCUIT COURT OF GREENBRIER COUNTY WEST VIRGINIA

Sandra M. Fleshman-Massey v. First-Citizens Bank & Trust Company**First Plaintiff:**☐ Business ☒ Individual
☐ Government ☐ Other**First Defendant:**☒ Business ☐ Individual
☐ Government ☐ Other**Judge:**

Robert E. Richardson

COMPLAINT INFORMATION**Case Type:** Civil**Complaint Type:** Other**Origin:**☒ Initial Filing ☐ Appeal from Municipal Court ☐ Appeal from Magistrate Court**Jury Trial Requested:**☒ Yes ☐ No**Case will be ready for trial by:** 7/1/2022**Mediation Requested:**☐ Yes ☒ No**Substantial Hardship Requested:** ☐ Yes ☒ No☐ Do you or any of your clients or witnesses in this case require special accommodations due to a disability?☐ Wheelchair accessible hearing room and other facilities☐ Interpreter or other auxiliary aid for the hearing impaired☐ Reader or other auxiliary aid for the visually impaired☐ Spokesperson or other auxiliary aid for the speech impaired☐ Other: _____☐ I am proceeding without an attorney☒ I have an attorney: Mark Atkinson, PO Box 549, Charleston, WV 25322**EXHIBIT A**

SERVED PARTIES

Name: First-Citizens Bank & Trust Company
Address: CT Corporation System 1627 Quarrier Street, Charleston WV 25311
Days to Answer: 30 **Type of Service:** Secretary of State - Certified - Including Copy Fee

Name: Deborah Parker
Address: 686 Main Street, East, White Sulphur Springs WV 24986
Days to Answer: 20 **Type of Service:** Plaintiff - Private Process Server

IN THE CIRCUIT COURT OF GREENBRIER COUNTY, WEST VIRGINIA

SANDRA M. FLESHMAN-MASSEY,

Plaintiff,

v.

CIVIL ACTION NO.:

FIRST-CITIZENS BANK & TRUST COMPANY
and DEBORAH PARKER,

Defendants.

COMPLAINT

1. The plaintiff, Sandra M. Fleshman-Massey, brings this action against the defendants for their discriminatory actions against the plaintiff.

PARTIES

2. The plaintiff, Sandra M. Fleshman-Massey, was at all times relevant herein, a resident of Greenbrier County, West Virginia.

3. The defendant, First-Citizens Bank & Trust Company, is a North Carolina corporation whose principal place of business is at Raleigh, North Carolina, and at all times relevant herein was doing business in Greenbrier County, West Virginia.

4. Upon information and belief, the defendant, Deborah Parker, was at all times relevant herein, a resident of Greenbrier County, West Virginia.

FACTS

5. Plaintiff Sandra M. Fleshman-Massey was employed by the defendant, First-Citizens Bank & Trust Company from approximately April 21, 2003 until September 16, 2020.

6. During her employment, the plaintiff, Sandra M. Fleshman-Massey, consistently performed her duties in a satisfactory manner and met the reasonable expectations of her employer.

7. Defendant Deborah Parker was a supervisor of the plaintiff during her employment with Defendant First Citizens Bank & Trust Company.

8. On or about September 16, 2020, the defendant maliciously and intentionally terminated the plaintiff's employment.

9. At the time of the termination of her employment, plaintiff was fifty-seven years old and was thus within the class of persons protected by the West Virginia Human Rights Act from age discrimination.

10. Defendants retained one or more similarly situated employees who were substantially younger than the plaintiff.

11. Since the time of plaintiff's illegal termination, the defendants have refused to rehire the plaintiff.

12. When making the decision to terminate the plaintiff's employment, both defendants were motivated by the plaintiff's age.

13. When making the decision(s) not to rehire the plaintiff, both defendants were motivated by the plaintiff's age.

14. The reason given by the defendants for the termination of plaintiff's employment was pretextual.

15. Alternatively, even if the reason given by defendants for the plaintiff's termination of employment was not pretextual, the defendants would not have terminated the plaintiff's employment but for her age.

16. Upon information and belief, Defendant Parker knew that the termination of the plaintiff by Defendant First-Citizens Bank & Trust Company as well as the failure to rehire the plaintiff constituted violations of the West Virginia Human Rights Act.

17. Nevertheless, Defendant Parker gave substantial assistance and encouragement to Defendant First-Citizens Bank & Trust Company's conduct and, upon information and belief, participated in the decision to terminate the plaintiff's employment and the decision not to rehire the plaintiff.

18. Defendant Deborah Parker aided, abetted, incited, compelled and/or coerced Defendant First-Citizens Bank & Trust Company to terminate plaintiff's employment on the basis of her age in violation of the West Virginia Human Rights Act.

19. Defendant Deborah Parker aided, abetted, incited, compelled and/or coerced Defendant First-Citizens Bank & Trust Company not to rehire the plaintiff on the basis of her age in violation of the West Virginia Human Rights Act.

FIRST CAUSE OF ACTION

20. Plaintiff Sandra M. Fleshman-Massey's termination from her employment and/or the defendants' refusal to rehire the plaintiff were based upon, in whole or in part, plaintiff's age, in violation of the West Virginia Human Rights Act, West Virginia Code §5-11-9(1).

21. As a direct and proximate result of the defendants' actions, plaintiff has suffered and will continue to suffer lost wages and benefits in an amount to be determined by the jury.

22. As a direct and proximate result of the defendants' actions, plaintiff is entitled to damages for indignity, embarrassment and humiliation in an amount to be determined by the jury.

23. Defendants acted with actual malice toward the plaintiff or a conscious, reckless and outrageous indifference to the health, safety and welfare of others warranting an assessment of punitive damages against the defendants.

24. Defendants' actions were willful and malicious and violated the West Virginia Human Rights Act entitling the plaintiff to attorney fees and costs pursuant to West Virginia Code §5-11-13 and/or the decisions of the West Virginia Supreme Court of Appeals.

WHEREFORE, plaintiff prays for the following relief:

1. Damages set forth in this Complaint, including lost wages and benefits, back pay, front pay, damages for indignity, embarrassment and humiliation, and punitive damages in an amount to be determined by the jury;
2. Prejudgment interest as provided by law;
3. Attorney fees and costs; and
4. Such further relief as this court may deem just and equitable.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES TRIABLE TO A JURY.

SANDRA M. FLESHMAN-MASSEY
By Counsel

/s/ Mark A. Atkinson
(WVSB #184)
ATKINSON & POLAK, PLLC
P.O. Box 549
Charleston, WV 25322-0549
(304) 346-5100
emboles@amplaw.com



**Service of Process
Transmittal**

07/13/2021

CT Log Number 539887397

TO: Heather Adams
First-Citizens Bank & Trust Company
4300 Six Forks Rd, First Citizens Center
Raleigh, NC 27609-5718

RE: Process Served in West Virginia

FOR: First-Citizens Bank & Trust Company (Domestic State: NC)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: SANDRA M. FLESHMAN-MASSEY, PLTF. vs. FIRST-CITIZENS BANK & TRUST COMPANY AND DEBORAH PARKER, DFTS.

DOCUMENT(S) SERVED: -

COURT/AGENCY: None Specified
Case # CC132021C56

NATURE OF ACTION: Employee Litigation - Wrongful Termination

ON WHOM PROCESS WAS SERVED: C T Corporation System, Charleston, WV

DATE AND HOUR OF SERVICE: By Certified Mail on 07/13/2021 postmarked: "Not Post Marked"

JURISDICTION SERVED : West Virginia

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT has retained the current log, Retain Date: 07/13/2021, Expected Purge Date: 07/18/2021

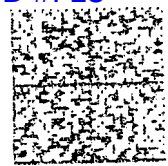
Image SOP

Email Notification, Gus Schmidt gus.schmidt@firstcitizens.com

Email Notification, Marshella Baker marshella.baker@firstcitizens.com

REGISTERED AGENT ADDRESS: C T Corporation System
5098 Washington St. W. Ste. 407
Charleston, WV 25313
866-203-1500
DealTeam@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



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Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305

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9214 8901 1251 3410 0003 1419 32

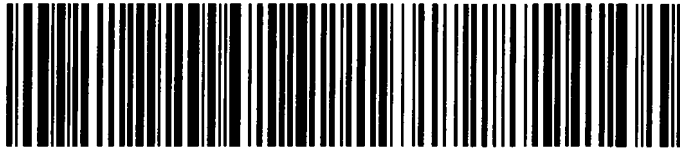
FIRST-CITIZENS BANK & TRUST COMPANY
C. T. Corporation System
5098 WEST WASHINGTON STREET
SUITE 407
CHARLESTON, WV 25313

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
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FIRST-CITIZENS BANK & TRUST COMPANY
C. T. Corporation System
5098 WEST WASHINGTON STREET
SUITE 407
CHARLESTON, WV 25313

Control Number: 276911

Agent: C. T. Corporation System

Defendant: FIRST-CITIZENS BANK & TRUST
COMPANY
5098 WEST WASHINGTON STREET
SUITE 407
CHARLESTON, WV 25313 US

County: Greenbrier

Civil Action: 21-C-56

Certified Number: 92148901125134100003141932

Service Date: 7/8/2021

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, **not to the Secretary of State's office.***

Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

IN THE CIRCUIT OF GREENBRIER WEST VIRGINIA
Sandra M. Fleshman-Massey v. First-Citizens Bank & Trust Company

Service Type: Secretary of State - Certified - Including Copy Fee

NOTICE TO: First-Citizens Bank & Trust Company, CT Corporation System, 1627 Quarrier Street, Charleston, WV 25311
THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OF DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OF HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Mark Atkinson, PO Box 549, Charleston, WV 25322

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

7/1/2021 3:23:00 PM

Date

/s/ Louvonne Arbuckle

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ Not Found in Bailiwick

Date

Server's Signature

ACCEPTED FOR
SERVICE OF PROCESS
2021 JUL -8 P 1:43
SECRETARY OF STATE
STATE OF WEST VIRGINIA